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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,825	09/05/2006	Edward V. Roscioli	641-01	7884
2746 7590 02/25/2010 WILLIAM H. EILBERG 316 CALIFORNIA AVE. #785 RENO, NV 89509				
EXAMINER A. PHU DIEU TRAN				
ART UNIT 3633		PAPER NUMBER		
NOTIFICATION DATE 02/25/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

whe@eilberg.com

# Office Action Summary

**Application No.**

10/566,825

**Applicant(s)**

ROSCIOLI, EDWARD V.

**Examiner**

PHI D. A

**Art Unit**

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14, 16-18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-18, 20-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 9, 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1, 7 “for use within an environment”, “for isolating at least one person from an environment having”, appears to claim a subcombination between the shelter system and the environment. However, claims 3, 9, 10-12 appear to positively claim the environment. The claims are thus confusing in scope.

The claims are examined as best understood.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7, 13-14, 16-18, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hilbert (6192633).

Hilbert discloses a shelter for isolating at least one person from an environment having air, the shelter comprising: a flexible and air impermeable material, wherein the flexible and air

impermeable material comprises a bag which is free of any permanent rigidifying member, the enclosure being configured to define an interior chamber and being expansible from a storage configuration in which the chamber has a minimum volume to a usage configuration in which the chamber has a maximum volume, the maximum volume being of sufficient magnitude to entirely contain at least one person, the enclosure being further configured to contain a quantity of air within the chamber when disposed in the usage configuration and to at least one of substantially prevent entry of the environment air into the enclosure chamber and substantially prevent egress of enclosure air into the environment, the enclosure including a first enclosure section disposable in a first location in the environment, the first enclosure section defining a first chamber section, a second enclosure section disposable in a second location in the environment spaced from the first location, the two enclosure sections being connected together such that the two chamber sections provide a generally continuous enclosure chamber (figure 9), the two enclosure sections are removably connected together, wherein the enclosure has a passage opening sized to permit a person to move between the environment and the enclosure chamber and a cover configured to substantially seal the opening, wherein the enclosure includes at least one sheet of a first flexible material, the first material including a layer of a metallic substance, and at least one sheet of a second flexible material, the second material being at least generally transparent so as to provide a window, the enclosure is a residence enclosure and further comprising at least one decontamination enclosure connected with the residence enclosure and defining an interior chamber, the enclosure having a first opening extending between the decontamination chamber and the environment and a second opening extending between the chamber and the enclosure chamber, a frame configured to maintain the enclosure

disposed in the usage configuration.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hilbert (6192633) in view of Gamow (5398678).

Hilbert discloses a shelter system for use within an environment having air, the shelter system comprising: an enclosure disposable within the environment and formed of a flexible and air impermeable material, wherein the flexible and air impermeable material comprises a bag (figure 2) which is free of any permanent rigidifying member, the enclosure being configured to define an interior chamber, to contain a quantity of air within the chamber, and to substantially prevent entry of the environment air into the chamber; wherein the enclosure is configured to expand from a storage configuration to a deployed configuration and to alternatively contract from the deployed configuration to the storage configuration, wherein the room has at least one generally vertical wall and a generally horizontal ceiling and the enclosure is removably connectable with at least one of the wall and the ceiling so as to support the enclosure in the usage configuration, wherein the enclosure includes a first enclosure section disposable in a first location in the environment, the first enclosure section defining a first chamber section, and a second enclosure section (figure 9) disposable in a second location in the environment spaced

from the first location, the two enclosure sections being connected together such that the two chamber sections provide a generally continuous enclosure chamber, wherein the two enclosure sections are removably connected together.

Hilbert does not show an oxygen source disposable within the enclosure, the oxygen source being configured to discharge oxygen into the enclosed air, a carbon dioxide removal device disposable within the enclosure and including an interior chamber and a reactive material disposed within the removal device chamber and configured to remove carbon dioxide from the enclosure air.

Gamow discloses an oxygen source disposable within the enclosure, the oxygen source being configured to discharge oxygen into the enclosed air, a carbon dioxide removal device disposable within the enclosure and including an interior chamber and a reactive material disposed within the removal device chamber and configured to remove carbon dioxide from the enclosure air.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hilbert 's disclosure to show an oxygen source disposable within the enclosure, the oxygen source being configured to discharge oxygen into the enclosed air, a carbon dioxide removal device disposable within the enclosure and including an interior chamber and a reactive material disposed within the removal device chamber and configured to remove carbon dioxide from the enclosure air as taught by Gamow in order to properly support a living environment for a human being within the enclosure.

Per claims 4-5, Hilbert as modified shows all the claimed limitations except for the oxygen source includes: a housing disposable within the enclosure chamber and having an

interior chamber and an opening, the opening extending into the interior chamber and being fluidly connectable with the enclosure chamber; and a quantity of an oxygen-producing material removably disposable within the housing chamber and configured to generate oxygen by spontaneous chemical reaction, the housing being configured such that the oxygen generated by the material flows from the housing chamber, through the housing opening and into the enclosure chamber, the carbon dioxide removal device further includes: a housing bounding the interior chamber and having an inlet fluidly connecting the enclosure chamber with the removal device chamber and an outlet fluidly connecting the device chamber with the enclosure chamber; and a fan connected with the housing and configured to initiate flow of a portion of the enclosure air into the inlet, through the reactive material disposed within the removal chamber, out of the outlet and back to enclosure chamber.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hilbert's modified structures to show the oxygen source includes: a housing disposable within the enclosure chamber and having an interior chamber and an opening, the opening extending into the interior chamber and being fluidly connectable with the enclosure chamber; and a quantity of an oxygen-producing material removably disposable within the housing chamber and configured to generate oxygen by spontaneous chemical reaction, the housing being configured such that the oxygen generated by the material flows from the housing chamber, through the housing opening and into the enclosure chamber, the carbon dioxide removal device further includes: a housing bounding the interior chamber and having an inlet fluidly connecting the enclosure chamber with the removal device chamber and an outlet fluidly connecting the device chamber with the enclosure chamber; and a fan connected with the

housing and configured to initiate flow of a portion of the enclosure air into the inlet, through the reactive material disposed within the removal chamber, out of the outlet and back to enclosure chamber because the oxygen source and the carbon dioxide removal device are well known in the art and would be readily available for usage in an enclosed environment to provide and oxygen and remove carbon dioxide, and one having ordinary skill in the art would have found it obvious to incorporate the oxygen source and the carbon removal device in an enclosed environment to help regulate and provide a proper living environment for a human being.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hilbert (6192633) in view of Gamow (5398678) as applied to claim 1 above and further in view of Getz et al (5727353).

Hilbert as modified shows all the claimed limitations except for the environment including a vehicle having an interior chamber and the enclosure is disposed within the chamber.

Getz et al discloses a treated chamber (40) disposed within the chamber of a vehicle.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hilbert's modified structure to show the environment including a vehicle having an interior chamber and the enclosure is disposed within the chamber as taught by Getz et al in order to allow for quick deployment of the enclosure to remote areas.

4. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hilbert (6192633) in view of Risley et al (7198045)

Hilbert shows all the claimed limitations except for the environment including a building having at least one room and the enclosure is disposable within the room.



Risley et al discloses an enclosure including a building having at least one room and the enclosure is disposable within the room (col 1 lines 49-51).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hilbert's structure to show the environment including a building having at least one room and the enclosure is disposable within the room in order to allow a person to utilize the protective enclosure within a building as taught by Risley et al.

Per claims 10-11, Hilbert as modified further shows all the claimed limitations except for the building including a first and a second room and the enclosure having first and second sections disposed in the first and second room.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hilbert's modified structures to show the building including a first and a second room and the enclosure having first and second sections disposed in the first and second room since a person having ordinary skill in the art would have found it obvious to extend the multiple sections of the protective enclosure of Hilbert's figure 9 into different rooms of a building in order to accommodate and protect many people from outside environment as needed.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hilbert (6192633) in view of Getz et al (5727353).

Hilbert shows all the claimed limitations except for the environment including a vehicle having an interior chamber and the enclosure is disposed within the chamber.

Getz et al discloses a treated chamber (40) disposed within the chamber of a vehicle.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hilbert's structure to show the environment including a vehicle having an

interior chamber and the enclosure is disposed within the chamber as taught by Getz et al in order to allow for quick deployment of the enclosure to remote areas.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-14, 16-18, 20-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different shelter systems.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phi D A/  
Primary Examiner, Art Unit 3633

12/22/2009